

## 21 C.J.S. Courts § 305

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### Courts

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### VIII. Concurrent and Conflicting Jurisdiction

#### C. Courts of Different States or Countries

### § 305. Stay or dismissal of foreign proceedings

[Topic Summary](#) | [References](#) | [Correlation Table](#)

#### West's Key Number Digest

West's Key Number Digest, [Courts](#) 514, 515

**The mere pendency of a prior parallel suit in one state cannot be pleaded in abatement or in bar to a subsequent suit in another state or country, but as a matter of comity, the court of one state may stay a proceeding pending before it on the ground that a case involving the same subject matter and the same parties is pending in a court of another state or foreign country.**

It is well settled that the mere pendency of a prior parallel suit in one state cannot be pleaded in abatement or in bar to a subsequent suit in another state even though both suits are between the same parties and involve the same subject matter.<sup>1</sup> Likewise, the pendency of an action in a foreign country is not a bar to the institution of another action between the same parties and for the same cause of action in a state court in the United States; nor is it the duty of the state court to stay the action pending the determination of the earlier suit in the foreign country even though the entire controversy might be disposed of there.<sup>2</sup> Rather, where courts of separate sovereigns have concurrent jurisdiction, the two courts may proceed simultaneously until one court reaches judgment.<sup>3</sup>

As a matter of comity, however, the court of one state may stay or dismiss a proceeding pending before it on the ground that a case involving the same subject matter and the same parties is pending in a court of another state<sup>4</sup> or foreign country.<sup>5</sup> Under the doctrine of comity, an action may be stayed until a prior parallel action in the courts of a different sovereignty is determined.<sup>6</sup> Once stayed, the later action remains pending until the judgment in the prior action becomes final.<sup>7</sup> A final judgment favorable to the plaintiffs in the prior action eliminates the need to proceed with the later action where the plaintiffs are the same in both actions; in turn, a final judgment favorable to the defendant may be pleaded in bar of the later action.<sup>8</sup>

### *Effect of long-arm statute.*

The fact that an action fits within a state's long-arm statute does not prohibit the extension of comity and a stay of proceedings due to parallel litigation pending in the courts of another state.<sup>9</sup> Although a long-arm statute requires trial courts to recognize the full scope of their jurisdiction, it does not require them to exercise that jurisdiction in the face of countervailing policies, such as principles of comity.<sup>10</sup>

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### Footnotes

- 1 Tex.—*In re State Farm Mut. Auto. Ins. Co.*, 192 S.W.3d 897 (Tex. App. Tyler 2006).
- 2 Cal.—*Dial 800 v. Fesbinder*, 118 Cal. App. 4th 32, 12 Cal. Rptr. 3d 711 (2d Dist. 2004), as modified, (May 5, 2004).
- 3 Ariz.—*Astorga v. Wing*, 211 Ariz. 139, 118 P.3d 1103 (Ct. App. Div. 1 2005).
- 4 Fla.—*Parker v. Estate of Bealer*, 890 So. 2d 508 (Fla. 4th DCA 2005).  
Iowa—*Edward Rose Bldg. Co. v. Cascade Lumber Co.*, 621 N.W.2d 193 (Iowa 2001).  
N.J.—*Sensient Colors Inc. v. Allstate Ins. Co.*, 193 N.J. 373, 939 A.2d 767 (2008).  
**A.L.R. Library**  
Pending proceeding in another state as ground for declining jurisdiction under sec. 6(a) of the Uniform Child Custody Jurisdiction Act (UCCJA) or the Parental Kidnapping Prevention Act (PKPA), 28 U.S.C.A. sec. 1738A(g), 20 A.L.R.5th 700.
- 5 U.S.—*Bigio v. Coca-Cola Co.*, 239 F.3d 440 (2d Cir. 2000).  
Cal.—*Dial 800 v. Fesbinder*, 118 Cal. App. 4th 32, 12 Cal. Rptr. 3d 711 (2d Dist. 2004), as modified, (May 5, 2004).
- 6 Ariz.—*Astorga v. Wing*, 211 Ariz. 139, 118 P.3d 1103 (Ct. App. Div. 1 2005).

- 7                   Tex.—*In re State Farm Mut. Auto. Ins. Co.*, 192 S.W.3d 897 (Tex. App. Tyler 2006).
- 8                   Tex.—*In re State Farm Mut. Auto. Ins. Co.*, 192 S.W.3d 897 (Tex. App. Tyler 2006).
- 9                   Utah—*Trillium USA, Inc. v. Board of County Com'rs of Broward County, Florida*, 2001 UT 101, 37 P.3d 1093 (Utah 2001).
- 10                  Utah—*Trillium USA, Inc. v. Board of County Com'rs of Broward County, Florida*, 2001 UT 101, 37 P.3d 1093 (Utah 2001).

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